IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 2149 of 2004 & W.P. No. 12930 of 2004

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WRIT APPEAL NO : 2149 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22/09/2004 in WVMP No. 2671 of 2004 in WPMP No.16504 of 2004 in W.P. No. 12930 of 2004 on the file of the High Court.)

Between:

1 A.Vinod S/o.A.Krishna Rao,
R/o.H.No.145, Balamari Housing Co-op Society, Mahendra Hills,

Secunderabad.
2 A.Rajesh S/o.A.Krishna Rao
R/o.H.No.145, Balamari Housing Co-op. Society, Mahendra Hills,

Secunderabad.
3 A.Krishna Rao S/o.Late A.Mallaiah
R/o.H.No.145, Balamari Housing Co-op. Society, Mahendra Hills,

Secunderabad.

..... APPELLANTS

AND

1 Marri Ravindra Reddy S/o.Late Dr.M.Chenna Reddy
R/o.H.No.12-5-28, Lalaguda, Tarnaka, Secunderabad.
2 The Commissioner, Municipal Corporation Hyderabad,

Secunderabad Division.
3 The Addl.Commissioner, Municipal Corporation, Hyderabad

Secunderabad Division.

.....RESPONDENTS

Counsel for the Appellants:MR.V.VENKATARAMANA

Counsel for Respondent No.1:Mr. Y. Rama Rao

Counsel for the Respondent Nos.2 and 3: Mr. D. Srinivas

AND

W.P.No.12930 OF 2004

Between

1. Marri Ravindra Reddy, S/o Late Dr.M.Chenna Reddy,

R/o.H.No.12-5-28, Lalaguda, Tarnaka, Secunderabad.

PETITIONER

And

1. The Commissioner, Municipal Corporation of Hyderabad,

Hyderabad.

2. The Additional Commissioner, Municipal Corporation of

Hyderabad, Secunderabad Division.

3 A.Vinod S/o.A.Krishna Rao,

R/o.H.No.145, Balamari Housing Co-op Society, Mahendra Hills,

Secunderabad.

4 A.Rajesh S/o.A.Krishna Rao

R/o.H.No.145, Balamari Housing Co-op. Society, Mahendra Hills,

Secunderabad.

5 A.Krishna Rao S/o.Late A.Mallaiah

R/o.H.No.145, Balamari Housing Co-op. Society, Mahendra

Hills, Secunderabad.

RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction particularly one in the nature of writ of Mandamus by directing the 1st respondent to dispose of the representation of objections filed by the petitioner dated 19.07.2004 for cancellation of permission accorded to the respondents 3 to 6 for the construction of multi storied building vide permit No.51/80 of 2004 vide file No.0/138/CSC/TP7/2004 dated 05.07.2000004 issued by the first respondent in respect of property bearing Municipal No.12-5-

29/1/A2 Old No.12-5-28 & 29) situated at Tarnaka, Secunderabad.

Counsel for the petitioner: Mr. Y. Rama Rao
Counsel for Respondent Nos.1 and 2:Mr. D. Srinivas
Counsel for the Respondent Nos.3 to 5: MR.V.VENKATARAMANA

The Court made the following Common Order: (per Sri Devinder Gupta, CJ)

Appeal is against the order passed by the learned single judge on 22.9.2004 disposing of W.P.M.P. No. 16504 and W.V.M.P. No.2671 of 2004 and thereby making the interim order absolute during the pendency of the writ petition.

The grievance of the learned counsel for the appellants is that the order passed by the learned single judge is liable to be set aside inasmuch as there is no prima facie case in favour of the writ petitioner-respondent No.1 and that appellants are suffering heavy losses because of the stoppage of construction.

When appeal was taken up for hearing, with the consent of the parties, we have also taken up Writ Petition No.12930 of 2004 for final disposal.

The permit which was granted to the appellants herein vide proceedings dated 5.7.2004 for construction of a multi storied building is under challenge by the writ petitioner-respondent on numerous grounds and prayer in the writ petition is to direct the Commissioner, Municipal Corporation to dispose of the objections and representation of the writ petitioner dated 19.7.2004 wherein prayer has been made to cancel the permit alleged to have been obtained by the appellants by fraud and mis-representation.

Pending writ petition, the writ petitioner prayed for staying construction and by way of an interim order, construction was ordered to be stopped. By the impugned order, the said interim order has been made absolute.

Whether or not the permission for construction was obtained by playing fraud is a question which has to be necessarily determined by the Commissioner, Municipal Corporation, Hyderabad and in case representation has already been made by the writ petitioner, there is no reason why there should be no decision on the said representation and objections after hearing the parties concerned. The learned single judge, of course, granted stay of construction, may be, on forming a prima facie view that there is some substance in what the writ petitioner was saying. We are not now examining the said question in this appeal. We are of the view that the

writ petition itself can be disposed of with direction to the Commissioner, Municipal Corporation, Hyderabad and till decision is taken on the representation of the writ petitioner status-quo as regards construction shall continue to be maintained.

Writ Petition accordingly stands disposed of with direction to the Commissioner, Municipal Corporation, Hyderabad to hear and decide the representation and objections of the writ petitioner dated 19.7.2004 after affording opportunity of hearing to the writ petitioner and the appellants herein and till decision is taken by the Commissioner, the appellants herein shall maintain status-quo as regards construction over the land in question. The Commissioner will take appropriate decision in accordance with law within a period of four weeks from the date of receipt a copy of the Writ Order from this Court. The parties are directed to appear before the Commissioner, Municipal Corporation of Hyderabad, Secunderabad Division at 11.00 A.M. on 7.2.2005.

With these directions, the writ appeal and the writ petition are disposed of. No costs.

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DEVINDER GUPTA, CJ

Date: 27th January, 2005

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M. NARAYANA REDDY,J

Pnb

To

1 The Commissioner, Municipal Corporation Hyderabad,

Secunderabad Division.

2 The Addl. Commissioner, Municipal Corporation, Hyderabad

Secunderabad Division.

3 Two C.D. Copies